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To: Commissioner for Patents for Examiner Syed Zia Group Art Unit 2131	Facsimile No.: 703/872-9306
From: Amelia Turner Legal Assistant to Stephen R. Tkacs	No. of Pages Including Cover Sheet: 5
Message: Transmitted herewith: <ul style="list-style-type: none">• Transmittal Document; and• Response to Notification of Non-Compliant Appeal Brief (37 C.F.R. 41.37).	
Re: Application No.: 09/584,605 Attorney Docket No: DE9-1999-0058	
Date: Friday, June 24, 2005	
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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of: Bendel et al.

Serial No.: 09/584,605

Filed: May 31, 2000

For: Method and Apparatus for
Controlling Access to the Contents of
Web Pages by Using a Mobile Security
Module

36736

PATENT TRADEMARK OFFICE
CUSTOMER NUMBER

Group Art Unit: 2131

Examiner: Zia, Syed

Attorney Docket No.: DE9-1999-0058

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By:


Amelia C. TurnerTRANSMITTAL DOCUMENT

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

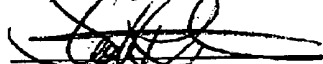
Sir:

TRANSMITTED HERewith:

- Response to Notification of Non-Compliant Appeal Brief (37 C.F.R. 41.37).

No fees are believed to be required. If, however, any fees are required, I authorize the Commissioner to charge these fees which may be required to IBM Corporation Deposit Account No. 09-0461. No extension of time is believed to be necessary. If, however, an extension of time is required, the extension is requested, and I authorize the Commissioner to charge any fees for this extension to IBM Corporation Deposit Account No. 09-0461.

Respectfully submitted,



Stephen R. Tkacs

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AGENT FOR APPLICANTS

Duke W. Yee

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ATTORNEY FOR APPLICANTS

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

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For: Method and Apparatus for
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Alexandria, VA 22313-1450, facsimile number (703) 872-
9306, on June 24th, 2005.
By: Amelia C. Turner
Amelia C. Turner

RESPONSE TO NOTIFICATION OF NON-COMPLIANT APPEAL BRIEFCommissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

No fees are believed to be required. If, however, any fees are required, I authorize the Commissioner to charge these fees which may be required to IBM Corporation Deposit Account No. 09-0461. No extension of time is believed to be necessary. If, however, an extension of time is required, the extension is requested, and I authorize the Commissioner to charge any fees for this extension to IBM Corporation Deposit Account No. 09-0461.

In response to the Notification of Non-Compliant Appeal Brief dated May 26, 2005, please reconsider the holding of non-compliance as follows:

REMARKS

In the Notification of Non-Compliant Appeal Brief, the Appeal Brief filed on October 12, 2005, was held defective for failure to comply with the provisions of 37 C.F.R. § 41.37(c)(1)(viii), because the brief allegedly does not contain a correct copy of the appealed claims as an appendix thereto. 37 C.F.R. § 41.37(c)(1)(viii) reads as follows:

(viii) *Claims appendix.* An appendix containing a copy of the claims involved in the appeal.

In a telephone interview with Examiner Zia, the Examiner explained that the Appeal Brief filed October 12, 2004, was found to be defective because the brief does not contain a copy of the claims with status indicators (e.g., Original, Previously Presented, Canceled). More particularly, the Examiner explained that the claims appendix does not indicate the canceled claims.

In the telephone interview, Appellants' representative noted that the Appeal Brief filed October 12, 2004, does indeed contain a claims appendix and, thus, should not have been held to be non-compliant. If the Examiner disagrees with the content of the claims appendix, then this issue could have been raised in the Examiner's Answer. Furthermore, Appellants' representative pointed out that 37 C.F.R. § 41.37 does not require status indicators. This appears to be a requirement of 37 C.F.R. § 1.121, which sets forth the manner of making amendments. Since the claims appendix in the Appeal Brief does not make amendments, the requirements of 37 C.F.R. § 1.121 do not apply. Also, the canceled claims are not involved in the appeal and, therefore, are correctly excluded from the claims appendix. The Examiner agreed that the Appeal Brief filed October 12, 2004, is correct and agreed to withdraw the Notification of Non-Compliant Appeal Brief.

CONCLUSION

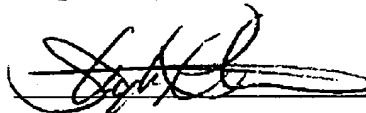
It is respectfully urged that the Appeal Brief filed October 12, 2004, is in compliance with 37 C.F.R. § 41.37. Appellants respectfully request that the Appeal Brief be entered.

The Examiner is invited to call the undersigned at the below-listed telephone number if in the opinion of the Examiner such a telephone conference would expedite or aid the prosecution and examination of this application.

DATE:

June 24, 2005

Respectfully submitted,



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